

ANALYSIS

This ordinance amends the water pipeline franchise granted to California Domestic Water Company, a California corporation, by Ordinance No. 2010-0028F, to reflect a transfer of a portion of the franchise rights to La Habra Utility Authority, a California Joint Powers Authority formed pursuant to the California Government Code, and make other minor revisions to clarify the terms and conditions of the franchise.

MARY C. WICKHAM
County Counsel

By 

NANCY M. TAKADE
Principal Deputy County Counsel
Contracts Division

NMT:pt

Requested: (8/16/16)
Revised: (8/16/16)

ORDINANCE NO. _____

An ordinance amending Ordinance No. 2010-0028F, relating to the water transportation and distribution franchise granted to California Domestic Water Company, a California corporation.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 1 of Ordinance No. 2010-0028F, is hereby amended to read as follows:

SECTION 1. Franchise Term, Grant.

A. The right, privilege, and franchise is granted to California Domestic Water Company, a California corporation ("Franchisee"), and its successors and assigns, ~~for a period of fifteen (15) years, beginning on~~through July 12~~11~~25, the operative date of this franchise, to lay, construct, reconstruct, maintain, operate, renew, repair, change the size of, remove, or abandon in place pipes and pipelines for the transportation and distribution of water, waste water, mud, and other liquid substances, including those substances that are generally accepted as appropriate for the treatment of water, excluding any hazardous substances or hazardous waste within the meaning of the "Comprehensive Environmental Response Compensation and Liability Act of 1980," 42 U.S.C. 9601 et seq., and amendments thereto (provided, however, that this exclusion shall not apply to substances in such amounts that are generally accepted as appropriate for the treatment of water), together with all manholes, valves, cathodic protection systems, appurtenances, and service connections necessary or appropriate for the operation of said pipes or pipelines, adjunct communication lines, including

poles, conduits, wires, cables, or other appurtenances and equipment for telegraph or telephone lines, or both, necessary or appropriate solely for the Franchisee's operations in, under, along, or across any and all highways as defined in Section 16.36.080 of the Los Angeles County Code, now or hereafter dedicated to public use within the unincorporated territory of the County of Los Angeles ("County"), State of California, located within the following described franchise areas, and depicted on the exhibit map(s) attached hereto.

Part A. Avocado Heights/Bassett Unincorporated Area:

Those unincorporated areas of the County lying within the following described boundaries:

Beginning at the intersection of the centerline of Durfee Avenue with the northerly boundary line of Valley Boulevard in the City of El Monte, California; thence southwesterly along the centerline of Durfee Avenue to that point on said centerline where Durfee Avenue becomes Peck Road; thence southwesterly along the centerline of Peck Road to the centerline of the Pomona (60) Freeway; thence easterly and southeasterly along the centerline of the Pomona (60) Freeway to the centerline of Turnbull Canyon Road; thence northeasterly along the centerline of Turnbull Canyon Road, and its northeasterly prolongation, to the northerly boundary line of Valley Boulevard; thence northwesterly along the northerly boundary line of Valley Boulevard to the point of beginning, as the centerlines and boundary lines of said avenues, roads, boulevards and freeways existed on March 15, 2010.

Part B. Industry/Northwest Whittier/Hacienda Heights Unincorporated

Area:

Those unincorporated areas of the County lying within the following described boundaries:

Beginning at the intersection of the centerline of Peck Road with the centerline of the Pomona (60) Freeway in the City of El Monte, California; thence southerly along the centerline of Peck Road to the centerline of the San Gabriel River (605) Freeway; thence southwesterly along the centerline of the San Gabriel River (605) Freeway to the southerly boundary line of Whittier Boulevard; thence southeasterly along the southerly boundary line of Whittier Boulevard to the westerly prolongation of the centerline of Penn Street; thence easterly along the centerline of Penn Street, and its westerly prolongation, to the centerline of Greenleaf Avenue; thence northerly along the centerline of Greenleaf Avenue to the centerline of Beverly Boulevard; thence easterly along the centerline of Beverly Boulevard to that point on said centerline where Beverly Boulevard becomes Turnbull Canyon Road; thence continuing easterly and northeasterly along the centerline of Turnbull Canyon Road, throughout its various courses and distances, to the centerline of the Pomona (60) Freeway; thence westerly and northwesterly along the centerline of the Pomona (60) Freeway to the point of beginning, as the centerlines and boundary lines of said avenues, roads, streets, boulevards and freeways existed on March 15, 2010.

Part C. ~~La Habra Heights Unincorporated Area:~~

~~Those unincorporated areas of the County lying within the following described boundaries:~~

~~Beginning at the intersection of the westerly boundary line of Hacienda Boulevard with the southerly boundary line of the County of Los Angeles, California, said southerly boundary line of Los Angeles County being also the northerly boundary line of the City of La Habra, in the County of Orange, California, and said westerly boundary line of Hacienda Boulevard being also the westerly boundary line of said County of Los Angeles, California, and the easterly boundary line of the city of La Habra Heights, California; thence easterly along said southerly boundary line of the County of Los Angeles, California, to the southeast corner of Tract No. 29465, recorded in Map Book 735, Page 32 and Page 33, of Tract Maps in the office of the Registrar-Recorder/County Clerk, of the County of Los Angeles, California (hereinafter, in the "Recorder's Office"); thence northerly along the easterly boundary line of said Tract No. 29465, to the most southerly southwest corner of Lot 6 of said Tract No. 29465, being also the northwest corner of Lot 13 of Tract No. 21780, recorded in Map Book 606, Page 61 and Page 62, of Tract Maps in the Recorder's Office; thence southeasterly along the southerly boundary line of said Lot 6 to the southeast corner thereon; thence northerly along the easterly boundary lines of Lot 6 and Lot 5 of said Tract No. 29465, to the northeast corner of said Lot 5; thence northwesterly along the northerly boundary line of said Lot 5 to the easterly boundary line of Lot 3 of said Tract No. 29465; thence northerly along the easterly boundary lines of Lot 3, Lot 2, and Lot 1 of said Tract No.~~

~~29465, to the northeast corner of said Lot 1; thence westerly along the northerly boundary line of said Lot 1 to the northwest corner thereon, being also the northeast corner of Lot 44 of Tract No. 28693, recorded in Map Book 728, Page 85 through Page 87, inclusive, of Tract Maps in the Recorder's Office; thence continuing westerly along the northerly boundary line of said Lot 44, and its westerly prolongation to the southeast corner of Tract No. 13106, recorded in Map Book 291, Page 29 and Page 30, of Tract Maps in the Recorder's Office; thence continuing westerly along the southerly boundary line of said Tract No. 13106, and its westerly prolongation (S°89°55'40"W), to the intersection with the centerline of Citrus Street; thence northwesterly and westerly along the centerline of Citrus Street, and its westerly prolongation, to that point on said centerline where Citrus Street becomes Avocado Crest Road; thence continuing westerly along the centerline of Avocado Crest Road, and its westerly prolongation to the westerly boundary line of Hacienda Boulevard; thence southerly and southwesterly along said westerly boundary line of Hacienda Boulevard to the point of beginning, as the centerlines and boundary lines of said counties, tract maps, boulevards, streets and roads existed on March 15, 2010.~~

~~Part D. Rowland Heights Unincorporated Area:~~

~~Those unincorporated areas of the County lying within the following described boundaries:~~

~~Being all that portion of the Rowland Heights unincorporated area lying within the boundaries of Tract Map No. 30081, recorded in Map Book 751, Page 71 and Page 72, of Tract Maps in the Recorder's Office.~~

SECTION 2. Section 2 of Ordinance No. 2010-0028F, is hereby amended to read as follows:

SECTION 2. Consideration; Payment of Fees.

A. ~~As consideration for the franchise granted, the Franchisee shall pay the County's Chief Executive Office ("CEO") a one-time granting fee of five thousand dollars (\$5,000) within thirty (30) days after the adoption of this ordinance.~~

B. ~~Franchise areas Part A and Part B:~~ As additional consideration for the franchise granted, for Franchisee's use of the County highways located within the franchise areas described in Section 1 Part A and Section 1 Part B, the Franchisee shall pay annually in arrears, on or before April 15 following the end of each calendar year, for each year during the life of the franchise ("fee payment date"), to the County, in lawful money of the United States, a franchise fee computed annually ("annual franchise fee"), as set forth in Subsection 2.BA.1 and Subsection 2.BA.2 below, the "base annual fee" shall be calculated according to the applicable base rate for each lineal foot of pipeline as follows:

The length of pipe expressed in feet located within the franchise area(s) described in Section 1 Part A and Section 1 Part B shall be multiplied by the applicable base rate, derived in accordance with the following formula:

1. For pipes eight (8) inches or less in nominal internal diameter, the base annual fee shall be twelve (12) cents per lineal foot for main lines in highways as of December 31 of the calendar year preceding the applicable fee payment date; and

2. For pipes greater than eight (8) inches in nominal internal diameter, the base annual fee shall be twelve (12) cents per lineal foot for main lines in highways as of December 31 of the calendar year preceding the applicable fee payment date, for the first eight (8) inches of nominal internal diameter, plus two (2) cents per nominal internal diameter inch or fraction thereof over eight (8) inches.

3. Annual franchise fee: The base annual fee shall be calculated as set forth Subsection 2.BA.1 and Subsection 2.BA.2, above and adjusted each calendar year, including the year of granting of this franchise, on the applicable fee payment date in accordance with the following formula to derive the annual franchise fee, provided however, notwithstanding any proof of prior rights presented by Franchisee, in no event shall the annual franchise fee be less than two thousand five hundred dollars (\$2,500).

a. The "Producer Price Index ("PPI") for all Commodities (1982 = 100)," as published by the United States Department of Labor, Bureau of Labor Statistics/Office of Information ("Bureau"), shall be defined as the "index," and such index as it stands on January 1, 2008 (i.e., 181.0), shall be defined as the "base index," which is declared to be 100, and the index for the month of September immediately preceding the fee payment date shall be defined as the "current index";

b. If the current index differs from the base index, then the base annual fee shall increase or decrease by the percentage increase or decrease between the current index and the base index, provided that, if the current index drops below the base index, no adjustment shall be made. The base annual fee shall be multiplied by an adjustment factor determined by dividing the current index by the base index. For

example, if the base index is 181.0 and the current index is 210, the annual franchise fee shall be one hundred and sixteen percent (i.e., $210 / 181.0 = 1.160 = 116\%$), times the base annual fee, provided however, under no circumstances shall the multiplying factor be less than one, nor shall the annual franchise fee calculated using said factor, be less than the base annual fee. If the Bureau shall revise the index, the parties hereto shall accept the method of revision for conversion recommended by the Bureau; and

c. If the Bureau discontinues the preparation or publication of the PPI for all commodities (1982 = 100), and if no transposition table prepared by the Bureau is available applicable to the year of 1982, then the amount of each annual franchise fee shall be computed by reference to such other price index as may be chosen by the County, and the County shall be the sole judge of comparability of successive indices and its determination on this point shall be final and conclusive. In no event shall the annual franchise fee adjusted by reference to such other price index be less than the base annual fee as set forth in Section 2.BA above.

~~C. Franchise areas Part C and Part D: As additional consideration for the franchise granted, for Franchisee's use of the County highways located within the franchise areas described in Section 1 Part C and Section 1 Part D, the Franchisee shall pay annually in arrears to the County, on or before the fee payment date defined hereinabove, in lawful money of the United States, an annual franchise fee as provided herein as follows:~~

~~Two percent (2%) of the gross annual receipts of the Franchisee arising from the use, operation, or possession of the franchise; provided, however, that such~~

~~payment shall in no event be less than one percent (1%) of the gross annual receipts of the Franchisee derived from the sale within the franchise area of the commodity or service for which the franchise is awarded. Such percentage shall be paid annually during the life of the franchise, including the year of granting of the franchise. In the event this amount is increased by federal or state law or the County is empowered to increase the rate, the County reserves the right to increase the rate to the maximum amount permitted by federal, state, or local law.~~

DB. In addition to the foregoing annual franchise fee payments in Section 2.BA.1 and Subsection 2.BA.2 above, the Franchisee shall also pay:

1. The County Department of Public Works, Construction Division, Permit Section, within sixty (60) days after the end of each calendar year, for each year of the life of the franchise, an initial construction charge calculated at a rate of one hundred dollars (\$100) per mile, or fraction thereof, for all new main lines laid during that preceding calendar year.

2. The County Auditor-Controller, within sixty (60) days after the end of each calendar year, for each year during the life of the franchise, an annual fee of twenty-five dollars (\$25) per pole-mile, or portion thereof, for aerial or above-ground lines, and twenty-five dollars (\$25) per mile, or portion thereof, for underground conduit for wire, cable, telephone, or telegraph lines maintained under the franchise during that preceding calendar year.

EC. The County reserves the right to change its method of calculating fees and the amount thereof, not more frequently than once every five (5) years, if the Board of

Supervisors ("Board") determines after a public hearing that good cause exists for such change, and such change is not in conflict with the laws of the State of California.

FD. The Franchisee shall also pay any application fees, administrative fees, processing fees, late charges, accrued interest, and penalties required in connection with this franchise. These fees may be charged at the then-current applicable rates.

SECTION 3. Section 3 of Ordinance No. 2010-0028F, is hereby amended to read as follows:

SECTION 3. Reports.

A. Franchise areas Part A and Part B: The Franchisee shall during the life of the franchise:

1. File with the County Auditor-Controller and the County's Chief Executive Office ("CEO"), Director of Real Estate, on the fee payment date, with one copy to each, a report, verified under oath by a duly authorized representative of the Franchisee, showing as of December 31 of the immediately preceding calendar year ("franchise report period"), the length of the Franchisee's main lines in highways, the nominal internal diameter of such main lines, the "rate per foot per year," defined as the amount payable per lineal foot per year under Section 2, and the computation of the total amount of the annual franchise fee due to the County, together with such data as is necessary in the opinion of the County Auditor-Controller and/or the CEO, Director of Real Estate, to calculate or verify the calculation of the annual franchise fee as required by Section 2.

2. In the report prepared pursuant to subsection 3.A.1 above, Franchisee shall also show: any change in franchise footage since the end of the most recent franchise report period, if any, segregating such footage as to new main lines laid, old main lines removed, old main lines abandoned in place, including the internal diameter of such main lines laid, removed, and/or abandoned in place; the footage of new conduits laid for wires, cables, telegraph, or telephone lines, old conduits removed, old conduits abandoned in place; the diameter of such conduits laid, removed, and/or abandoned in place; and the footage and internal diameter of main lines in territory annexed or incorporated since the last day of the most recent franchise report period.

3. File with the Director of the County Department of Public Works and the CEO, Director of Real Estate, on or before the fee payment date, with one copy to each, a report showing the permit number of each permit obtained for the installation of new main lines and conduits during the most recently completed franchise report period, together with the length and size of such main lines and conduits.

~~B. Franchise areas Part C and Part D: The Franchisee shall during the life of the franchise:~~

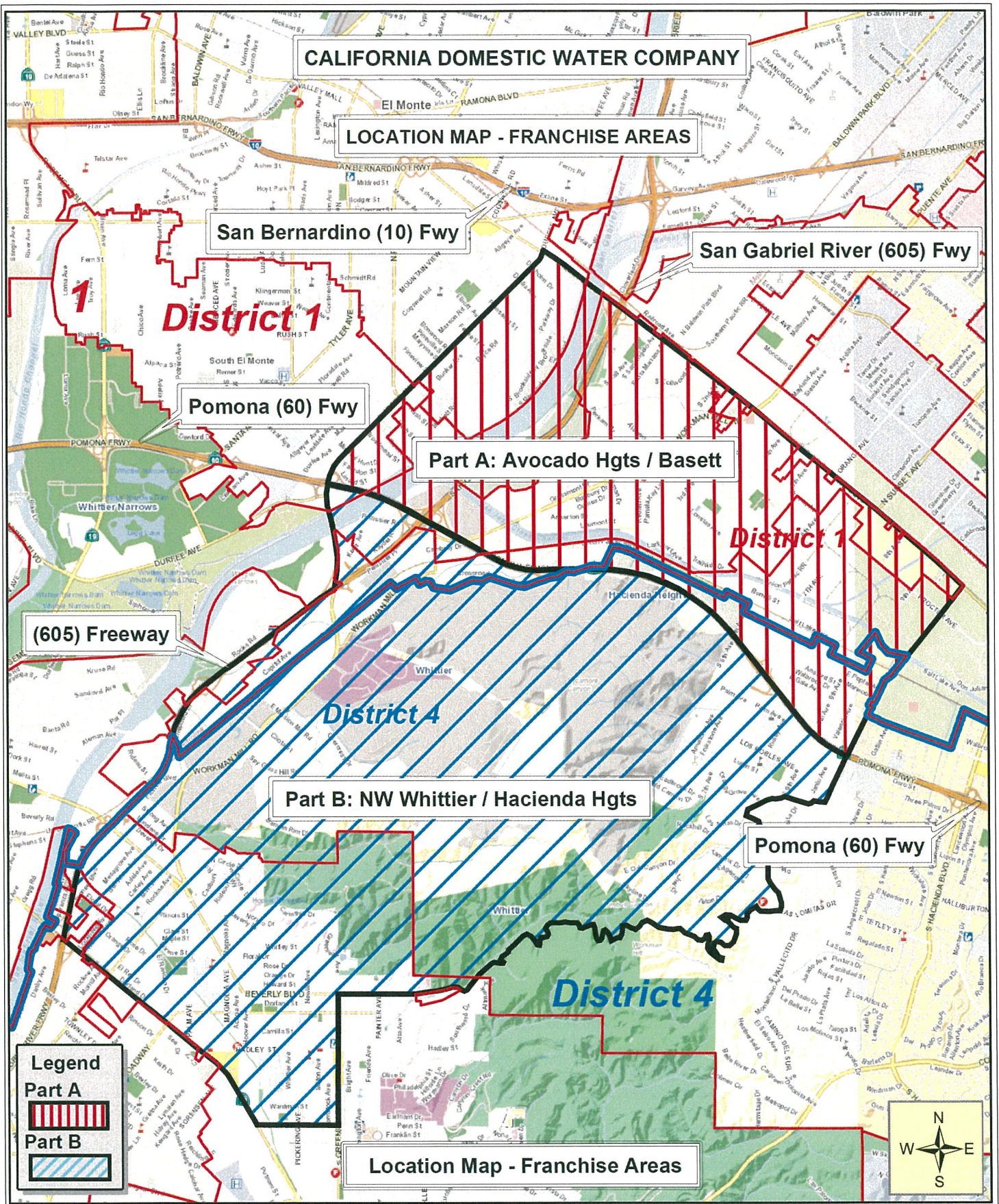
~~1. File with the County Auditor Controller and the CEO, Director of Real Estate, on or before each fee payment date, with one (1) copy to each, a report, verified under oath by a duly authorized representative of the Franchisee, showing as of the franchise report period, the total gross receipts of the Franchisee for the immediately preceding franchise report period, received or accrued in connection with the furnishing of the commodity or service arising from the use or operation of the~~

~~franchise, together with such additional data as is necessary in the opinion of the County Auditor-Controller and/or the CEO, Director of Real Estate, to calculate or verify the calculation of the annual franchise fee as required by Section 2.~~

~~2.—— In the report prepared pursuant to subsection 3.B above, Franchisee shall also show: any change in franchise footage since the end of the most recent prior franchise report period, segregating such footage as to new main lines laid, old main lines removed, old main lines abandoned in place, including the internal diameter of such main lines laid, removed, and/or abandoned in place; the footage of new conduit laid for wires, cables, telegraph, or telephone lines, old conduit removed, old conduit abandoned in place; the diameter of such conduits laid, removed, and/or abandoned in place; and the footage and internal diameter of main lines in territory annexed or incorporated since the last day of the most recent prior franchise report period.~~

~~3.—— File with the Director of the County Department of Public Works and the CEO, Director of Real Estate, within sixty (60) days after the end of each franchise report period, with one (1) copy to each, a report showing the permit number of each permit obtained for the installation of new main lines and conduits during the just completed franchise report period, together with the length and size of such main lines and conduits.~~

[CALDOMWATERCOMPTCC]



<p>Date September 2016</p> <p>Supervisory Districts 1st and 4th Districts</p>	<p>COUNTY OF LOS ANGELES - CHIEF EXECUTIVE OFFICE</p> <p>CALIFORNIA DOMESTIC WATER COMPANY</p> <p>LOCATION MAP - FRANCHISE AREAS</p>	<p>Cal-Domestic Wtr. Co. Amend Ord. 2010-0028F</p> <p>Agent R. Ball</p>
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Agent
R. Ball

Date
September 2016

Supervisory Districts
1st and 4th Districts

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Board of Supervisors ("Board"), for the County of Los Angeles ("County"), regarding the granting of a water pipeline franchise to La Habra Utility Authority, a Joint Powers Authority formed pursuant to California Government Code ("Franchisee"), and its successors and assigns, for existing water pipelines installed in County highways in the La Habra Heights and Rowland Heights unincorporated areas, within two (2) franchise areas described in the proposed franchise ordinance and depicted on the exhibit maps attached thereto.

The above hearing will be held on November 22, 2016, at 9:30 a.m. in the Hearing Room of the Board, Room 381, Kenneth Hahn Hall of Administration, 500 West Temple Street (corner of Temple Street and Grand Avenue) Los Angeles, California 90012, at which time all persons having any objection to the granting of the franchise herein described may appear before the Board and be heard thereon.

Copies of the ordinance to grant the franchise are on file at the Board's Executive Office, 383 Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012, and at the Chief Executive Office, Real Estate Division, 222 South Hill Street, 3rd Floor, Los Angeles, California 90012. The term of the franchise will be for a period of fifteen (15) years.

Franchisee has agreed to comply with the County's Pipeline Franchise Ordinance adopted by the Board in 1978, as amended in the ordinance to grant the franchise, and County and Franchisee have agreed that Franchisee shall not be responsible for payment of any granting fee, annual franchise fee, or other fee for the grant of, or exercise of, the rights granted under the franchise. Franchisee shall, as consideration for the rights conveyed to Franchisee, be required to comply with all the terms and conditions of the franchise. In the event Franchisee does not comply, the franchise will be forfeited.

Written comments may be sent to the Executive Office of the Board at the above address. If you do not understand this notice or need more information, please call (213) 974-4247.

Si no entiende esta noticia o si necesita más información por favor llame al número (213) 974-4247.

**LORI GLASGOW
EXECUTIVE OFFICER-CLERK OF
THE BOARD OF SUPERVISORS**